

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

LINDA BRUCE, :
 :
 Plaintiff, :
 :
 v. : Civil Action Number: 1:14cv18
 :
 THE HARTFORD, et al., :
 :
 Defendants. :

**MOTION TO SET ASIDE AND OBJECTIONS TO
MAGISTRATE JUDGE’S ORDER DATED MARCH 25, 2014 OF DEFENDANT
HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY**

Defendant Hartford Life and Accident Insurance Company (“Hartford”), by counsel, pursuant to Rule 72(a) of the Federal Rules of Civil Procedure, moves to set aside the Order entered by Magistrate Judge Thomas Rawles Jones, Jr. on March 25, 2014 (the “Order”) granting, in part, the Motion to Compel of Plaintiff Linda Bruce (“Plaintiff”). *See* Order, Docket No. 31; Motion to Compel, Docket No. 24. Hartford respectfully requests that the Court set aside the portion of the Order requiring Hartford to respond to Plaintiff’s discovery requests, and states the following as its objections, which are more fully set forth in the accompanying memorandum:

- **The Magistrate Judge erred because none of the extra-record discovery at issue could aid the Court in its decisional process, i.e., it is not reasonably calculated to lead to the discovery of admissible evidence as required by the Federal Rules. While this would be true even in a garden variety denial of benefits claim under Section 502(a)(1)(B) of ERISA, it is *particularly* true here, where the administrative review was never completed and the administrative record is therefore incomplete. Because the only proper remedy is a remand for further review, discovery relating to a conflict of interest is not relevant.**
- **The Magistrate Judge erred in finding that extra-record conflict of interest discovery is permissible in abuse of discretion ERISA cases, contrary to existing Fourth Circuit precedent.**

- **The Magistrate Judge erred in failing to follow *Abromitis v. Cont. Cas. Co./CNA Ins. Co.*, 114 F. App'x 57, 61 (4th Cir. 2004), which is binding Fourth Circuit precedent holding that discovery regarding third-party vendors is not relevant to an insurer's conflict of interest.**
- **The Magistrate Judge erred by ordering discovery without first scrutinizing the record to determine the likelihood that the conflict of interest improperly influenced Hartford.**

For the reasons set forth in the accompanying memorandum of law, the Order is clearly erroneous and contrary to law, and should be set aside.

WHEREFORE, Hartford respectfully requests that the Court enter an Order: (1) granting its Motion to Set Aside, (2) sustaining its objections to the Magistrate Judge's Order dated March 25, 2014, (3) granting it the relief requested in the accompanying memorandum in support; and (4) granting it such further relief as the Court deems appropriate.

HARTFORD LIFE AND ACCIDENT INSURANCE
COMPANY (referred to in the caption as "THE
HARTFORD")

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CERTIFICATE OF SERVICE

I certify that on the 11th day of April, 2014, I electronically filed the foregoing using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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